

Zoning Board of Appeals Minutes 06/25/2014

MASHPEE ZONING BOARD OF APPEALS JUNE 25, 2014 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, June 25, 2014, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Chairman, Jonathan D. Furbush, Vice Chairman, William A. Blaisdell, Clerk, Ronald Bonvie, Board Member, Richard Jodka, Associate Member Domingo K. DeBarros were present. Building Commissioner Richard E. Morgan was also present. Board Members, James Reiffarth and Scott Goldstein were absent.

Chairman, Jonathan Furbush opened the meeting at 6:00 p.m. and announced that the meeting was being televised live on local Mashpee television. He stated four regular Board Members and Associate Member, Dom DeBarros were acting throughout.

PLEDGE OF ALLEGIANCE

NEW HEARINGS

Marilyn Marcelli: Request a Variance under §174-31 of the Zoning By-laws (Land Space Requirements) and M.G.L. Chapter 40A §10 for relief from frontage requirements to deem lot buildable on property located in an R-5 Zoning District at 29 Melissa Avenue (Map 21 Parcel 12), Mashpee, MA. (Previous variance expired).

Marilyn Marcelli: Request a Variance under §174-32 of the Zoning Bylaws (Fire Protection) and M.G.L. Chapter 40A §10 for relief from fire access requirements of 150 feet to deem lot buildable on property located in an R-5 Zoning District at 29 Melissa Avenue (Map 21 Parcel 12), Mashpee, MA. (Previous variance expired).

Mrs. Marcelli represented herself for the requested variance relief and returned to the Zoning Board of Appeals because the original variance granted back in August 2009 expired and no extensions were filed. Mashpee Fire Chief, Tom Rullo was also present to answer questions.

Mrs. Marcelli and her late husband purchased the lot back in 1978 and she would like to sell it. The lot is 1.35 acres in size and one yard short in frontage. The regulation came into effect after the lot was purchased in 1978 as buildable. The property was split off from another lot as early as 1930's-1940's. She stated there has never been any problem with emergency vehicles traveling down Melissa Avenue and it is privately plowed in the winter. She had a potential buyer who decided not to purchase the lot due to location demand of his employer.

Mr. Bonvie asked if the lot was contiguous to her current residence at 30 Melissa Ave. It is not. She and her first husband purchased lots marked "A" and "Lot 2" on the plot plan after several years of renting in that area. Three years later, they purchased the "C" lot and sold lot "A".

Mr. Furbush stated that he considers this a pre-existing, non-conforming lot. He mentioned that the trees and brush have taken over the street and is concerned of potential fire/emergency access. He asked Chief Rullo to comment.

Chief Rullo stated he met with Planning Board and consulted with Charlie Rowley, Consulting Engineer who did not believe there was any issue. Chief Rullo stated he was concerned about water access at the far end of the roadway but determined it is well within 500 feet. Charlie Rowley mentioned that in order to build on that lot, the potential owner would have to remove the 2 foot grade and would be well within the width of the road. The only issue is the brush and trees encroaching on the street.

Mr. Bonvie read a memo into the record from the Planning Board to the Building Department, dated June 10, 2014 summarizing their approval under the terms of the by-law Sections 174-3, 174-12, and 174-32 and any building erected as specified in M.G.L. Ch. 41, Section 81L.

Mr. Furbush asked Chief Rullo if 20 feet of pavement for the roadway was required as mentioned in the previous decision at the time the variance was granted in August 2009. Chief Rullo said they do not use the ladder truck for that area. He said he would like to see the brush cleared from the roadway. The Board told Mrs. Marcelli she has a right to clear brush abutting the street and will approve the variances contingent upon cutting back the brush so not to encroach on the road.

Mr. Bonvie made a motion to issue variances to Marilyn Marcelli under §174-31 of the Zoning By-laws (Land Space Requirements) in the amount of 3.79 feet on the westerly side (frontage) and a 21,194 square foot land space variance under M.G.L. Chapter 40A §10 to deem lot buildable. Also, included in the motion is variance relief of 150 feet from fire access under Section 174-32 of the Zoning By-law on property located in an R-5 Zoning District at 29 Melissa Avenue (Map 21 Parcel 12), Mashpee, MA. Also, the applicant is required to remove brush and any debris in the straight layout which is approximately 16 feet, stated by the Fire Chief, and a memo from the Planning Board to the Building Department dated June 20, 2014. Also, referencing a plot plan titled; "Plan of Land in Mashpee, Mass", for: Peter Nelson et al, scale: 1" = 40', dated June 6, 1978, by Kingsbury Surveying Co., Inc. 10 Powderhorn Way, Sandwich, MA, signed by the Mashpee Planning Board Approval under the subdivision Control Law not required.

Mr. Blaisdell seconded the motion, yes, Mr. Furbush, yes, Mr. Jodka, yes, and Mr. DeBarros, yes. All were in favor.

Robert M. Valletta: Request a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a spiral staircase to access second story deck on property located in an R-3 Zoning District at 112 Captains Row (Map 96 Parcel 17), Mashpee, MA.

Mr. Edward Shea, Shea Custom Carpentry, Inc. representing the applicant Mr. Robert Valetta. He is requesting to construct a second story master suite; a pre-existing structure and seeking access off the rear deck of the structure, half over the existing lot line and half not. Mr. Shea stated that he spoke with Drew McManus, in Conservation who does not have a problem with the project. The spiral staircase will add another means of access from that deck. He has a pre-approved patio from a previous variance request and an NOI that was also approved.

Mr. Bonvie was concerned about the 50 feet of the wetlands and would need Conservation approval as well as Zoning Board approval.

Mr. Furbush wants the shed removed and will condition that into the decision. Mr. Shea said he is not moving closer to the side line and the lot coverage will be less than the 16.3%.

Mr. Furbush read the comment from Conservation into the record stating; "The only property within wetlands jurisdiction is 112 Captains Row. If there is any ground disturbance involved with this project, it will require conservation review.

Mr. Furbush read the comment from Board of Health stating; "Floor plan reviewed. Second floor room at top of interior stairs not considered a bedroom because it is the only interior egress to the first floor – no privacy."

Mr. Bonvie made a motion to issue a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a spiral staircase to access second story deck on property located in an R-3 Zoning District at 112 Captains Row (Map 96 Parcel 17), Mashpee, MA. This motion is contingent upon satisfaction by Conservation, and any amendment would require returning to the Zoning Board of Appeals. This would also require Board of Health approval. The shed will be removed completely and not be replaced.

The Board finds that the proposal is not substantially more detrimental than the pre-existing, non-conforming structure and the new dwelling will be an improvement and conform to current building code requirements, is comparable in size and character to other structures in the neighborhood and has sufficient parking and setbacks as may be required. Also, referencing a plan provided by BSC Group, 349 Route 28, Unit D West Yarmouth, MA. Prepared for Shea Custom Carpentry, PO Box 503 South Dennis, MA, titled; Existing Conditions Plan with Proposed Stairs at 112 Captains Row, Mashpee, MA, Barnstable County dated February 26, 2014, drawing number is 6235-01. Referencing Addition & Renovations to The Valetta Residence, 112 Captains Row, Mashpee, MA, by W.B. Daniels, Design Services, PO Box 737, West Dennis, MA 02670 dated 8/14/2013, and Pages A1 through A5.

Bill Blaisdell, seconded, yes, Mr. Furbush, yes, Mr. Jodka, yes, Mr. DeBarros, yes. All were in favor.

OTHER BUSINESS

Mr. DeBarros made a motion to approve June 11, 2014 Meeting Minutes, yes, Mr. Jodka, seconded, yes, Mr. Furbush, yes, Mr. Blaisdell, yes, and Mr. Bonvie, yes. All were in favor.

Mr. Blaisdell made a motion to adjourn, Mr. Furbush, seconded, yes, Mr. Jodka, yes, Mr. Bonvie, yes, and Mr. DeBarros, yes. All were in favor.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals